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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,486	08/31/2000	James J. Crow	BRO039/4-001	4808

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EXAMINER

KUMAR, UTTAM

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 12/05/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 09/653,486	<b>Applicant(s)</b> CROW, JAMES J.	
	<b>Examiner</b> Uttam Kumar	<b>Art Unit</b> 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_ is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \*   c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____.  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____. | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7, 11, 17, 21, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0. Screenshots from the installation process of American Online software are included. Also included is a printout of America Online's website (<http://www.aol.com>) dated December 1, 1998. The printout shows that American Online Version 5.0 was released on or before December 1, 1998. Version 5.0 was the latest release of the software at the time of invention.

3. As to claims 1, 11 and 21, Jenkins discloses marketing systems and methods that preserve consumer privacy that teach:

- Determining whether said physical location falls within a set of service boundaries (column 5, lines 12-14). According to Jenkins, marketers can sort through potential clients using various criteria, including physical location.
- Electronically offering services if physical location falls within service area (column 5, lines 33-36).
- Receiving from said user an electronic order accepting said offer (column 5, lines 59-62).

Jenkins does not teach remotely qualifying a personal computer for broadband service or installing an automation agent on the computer to interface with the user.

American Online version 5.0 remotely qualifies a personal computer for Internet service (pages 5-6). These screenshots show the American Online software qualifying a personal computer for AOL's TCP/IP requirement (page 6). There is no restriction as to what kind of Internet service the software can provide. Page 6 shows that the software works over a TCP/IP connection without a modem, which inherently suggests that it works over a broadband connection.

American Online version 5.0 also teaches fulfilling the order by initiating an automation agent on a personal computer to interact with a user and thereby configuring the computer for access to their service (page 4).

It would have been obvious to one of ordinary skill in the art at the time of invention to market American Online version 5.0 using Jenkins' marketing system. The motivation to do so would be a more efficient marketing system that allows customers to easily access broadband service.

As to claims 7 and 17, Jenkins further teaches that users are selected for said offer based on pre-established criteria (column 5, lines 12-14).

As to claim 22, Jenkins does not teach a communications module for communicating the set of required configuration information to an automation server.

America Online version 5.0 teaches a communications module for communicating the set of required configuration information to an automation server

(pages 5-6). These screen shots show an attempt from the software's communication module to connect to an automation server.

It would have been obvious to one of ordinary skill in the art at the time of invention to market American Online version 5.0 using Jenkins' marketing system. The motivation to do so would be a more efficient marketing system that allows customers to easily access broadband service.

4. Claims 2, 12 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0 as applied to claims 1, 11, and 22 above, and further in view of Teixeira (U.S. 6,470,074).

Jenkins and America Online 5.0 do not teach that the broadband network can be DSL.

Teixeira teaches that the broadband network can be DSL (column 4, lines 23-28).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Teixeira's DSL service into the marketing system taught by Jenkins and America Online version 5.0. The motivation to do so would be a more efficient marketing system that allows customers to easily access DSL broadband service.

5. Claims 4, 14 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0 as applied to claims 1, 11, and 22 above, and further in view of Koppich et al (U.S. 6,636,329).

Jenkins and America Online 5.0 do not teach that the broadband network can be a cable network.

Koppich et al teaches that the broadband network can be a cable network (column 3, line 60).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement Koppich et al's cable service into the marketing system taught by Jenkins and America Online version 5.0. The motivation to do so would be a more efficient marketing system that allows customers to easily access cable broadband service.

6. Claims 9, 19, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0 as applied to claims 1, 11, and 22 above, and further in view of Du et al (U.S. 6,529,511).

Jenkins and America Online 5.0 do not teach that the broadband network can be an ISDN network.

Du et al teaches that the broadband network can be an ISDN network (column 1, lines 42-45).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement the ISDN service taught by Du et al into the marketing system taught by Jenkins and America Online version 5.0. The motivation to do so would be a more efficient marketing system that allows customers to easily access ISDN broadband service.

7. Claims 10, 20 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0 as applied to claims 1, 11, and 22 above, and further in view of Izadpanah et al (U.S. 6,560,213).

Jenkins and America Online 5.0 do not teach that the broadband network can be a wireless network.

Izadpanah et al teaches that the broadband network can be a wireless network (column 1, line 21).

It would have been obvious to one of ordinary skill in the art at the time of invention to implement the wireless broadband network taught by Izadpanah et al into the marketing system taught by Jenkins and America Online version 5.0. The motivation to do so would be a more efficient marketing system that allows customers to easily access wireless broadband service.

8. Claims 3, 5, 6, 8, 13, 15, 16, 18, 24, 26 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (U.S. 6,258,983) in view of American Online version 5.0 as applied to claims 1, 2, 4, 11, 12, 14, 17, 21, 22, 23, and 25 above, and further in view of Posthuma (U.S. 6,459,773).

As to claims 3, 13 and 24, Jenkins and America Online version 5.0 do not teach using a narrowband modem to contact a DSL line qualification server to test a physical outside line.

Posthuma discloses a loop certification and measurement for ADSL method that teaches using a narrowband modem to contact a DSL line qualification server to test a physical outside line (column 2, lines 31-41).

It would have been obvious to one of ordinary skill in the art at the time of invention to use Posthuma's qualification method before using Jenkins marketing system to market America Online 5.0 as described above. The motivation to do so would be to make sure a physical line qualifies for broadband service before trying to install the service at a location.

As to claims 5,15, and 26, Jenkins and America Online version 5.0 do not teach detecting a carrier signal from the broadband communication network.

Posthuma teaches detecting a carrier signal from the broadband communication network (column 2, lines 8-19).

It would have been obvious to one of ordinary skill in the art at the time of invention to use Posthuma's qualification method before using Jenkins marketing system to market America Online 5.0 as described above. The motivation to do so would be to make sure a physical line qualifies for broadband service before trying to install the service at a location.

As to claims 6, 16 and 27, Jenkins and America Online version 5.0 do not teach that the signal has a signal strength and a set of error codes and the qualifying step is based upon these characteristics.

Posthuma teaches the signal has signal strength and a set of error codes and the qualifying step is based upon these characteristics (column 4 line 56-column 5 line 11).

It would have been obvious to one of ordinary skill in the art at the time of invention to use Posthuma's qualification method before using Jenkins marketing system to market America Online 5.0 as described above. The motivation to do so



would be to make sure a physical line qualifies for broadband service before trying to install the service at a location.

As to claims 8 and 18, America Online version 5.0 further teaches at least some of the criteria are stored in a subscriber profile database (page 6). This screen shot shows that the software found one method on the personal computer that matched up with the software database as a valid communication method.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Li et al, U.S. 6,067,568

#### ***Automatic Setup of Service for Computer System Users***

This reference teaches installing an automation agent to interact with remote services.

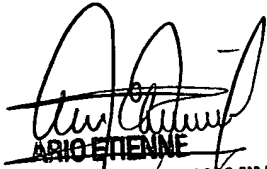
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uttam Kumar whose telephone number is 703-305-0719. The examiner can normally be reached on M-Th 7:30-5; Every other Friday 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 703-308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-305-3719.

Art Unit: 2157

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Uttam Kumar  
Art Unit 2157  
November 12, 2003

  
ARIO ETIENNE  
SUPERVISORY PATENT EXAMINER  
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